IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 210 of 2001

For Approval and Signature:

HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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VISNAGAR MAHILA MUDRANALAYA & UTPADAK SAHKARI MANDALI LTD - Petitioner(s)

Versus

DISTRICT EDUCATION OFFICER AND COLLECTOR - Respondent(s)

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Appearance :

MR PRAKASH K JANI for Petitioner(s) : 1,
MR JASWANT K SHAH, ASSTT GOVERNMENT PLEADER for Respondent(s) : 1,

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CORAM : HONOURABLE MR.JUSTICE RAVI R.TRIPATHI

Date : 25/07/2007

ORAL JUDGMENT

1. Petitioner- Shri Visnagar Mahila Mudranalaya and Utpadak Sahkari Mandali Limited is before this Court through its President Shakuntalaben Natwarlal Patel being aggrieved by the order passed by the District Election Officer- Collector, Mehsana, District Mehsana.

2. The facts giving rise to the present petition are that the petitioner society submitted its offer in response to an invitation for submitting tenders for printing work in connection with the election of the District/ Taluka/ Gram Panchayats. The petitioner was informed by the respondent that its tender was accepted as it was found to be second lowest amongst the tenders received by the respondent.

2.1. The petitioner informed the respondent about its inability to carry out the tender work within the stipulated period and also its inability to carry out the work of printing in view of insufficient arrangement for composing work. That being so, the respondent- Election Officer-Collector, Mehsana passed an order under challenge dated 01.09.2000, cancelling the tender of the petitioner and forfeiting the amount of Rs.10,500/- (Rupees Ten Thousand Five hundred only) and also blacklisting the the petitioner Society for ten years.

3. Present Special Civil Application was filed on 09.01.2001. Notice was issued on 22.01.2001 returnable on 31.01.2001. The Court was pleased to order that order dated 01.09.2000 blacklisting the petitioner is suspended till then. The matter was admitted on 18.04.2001 and the interim relief was ordered to be continued till further order.

4. The learned advocate for the petitioner submitted that order dated 01.09.2000 was passed without affording opportunity of hearing to the petitioner. He submitted that looking to the facts of the case and looking to the nature of activities undertaken by the petitioner Society, the order is too harsh.

The learned advocate for the petitioner submitted that the petitioner had represented to the authorities, stating that the petitioner Society was not able to carry out the work of printing ballot papers beyond the capacity indicated to the officer of its office and also stating that the petitioner Society would not be able to carry out the printing work in question within the stipulated time of 15 days.

5. Besides, the learned advocate for the petitioner has placed on record the work carried out by the petitioner Society from 30.01.2001 to December, 2005. Perusal of the list of the work undertaken by the petitioner Society reveals that the major part of the work is Government work and the same is undertaken by the petitioner Society without any trouble. The learned advocate submitted that looking to the satisfactory performance of the petitioner Society and taking into consideration that, except for the incident in question, there was no complaint whatsoever against the working of the petitioner

Society, the Collector-respondent herein ought to have taken more pragmatic view than he has taken in passing order dated 01.09.2000, whereby not only the tender is cancelled forfeiting the amount of Rs.10,500/-, but, for a period of ten years, the petitioner Society is blacklisted.

6. The learned advocate for the petitioner relied upon a decision of the Hon'ble the Apex Court in the matter of **M/s. Erusian Equipment and Chemicals Ltd. Vs. State of W.B.** reported in **AIR 1975 SC 266**, which was referred to by the learned Judge at the time of passing the order of admission of Special Civil Application No.513 of 2001. He submitted that the Hon'ble the Apex Court has held that, 'the authority cannot blacklist the contractor without affording an opportunity of hearing'.

7. Taking into consideration the rival submissions of the parties and taking into consideration the fact that the petitioner is a Co-operative Society of women and is working satisfactorily right from its inception and having as many as 990 members, as set out in para 1 of the petition, the order under challenge is not warranted. The learned Assistant Government Pleader is not able to point out any other incident than the incidents in which the impugned order in this petition and in other cognate matter are passed. The petition is allowed. Order dated 01.09.2000 is hereby quashed and set aside. Rule is made absolute with no order as to costs.

(RAVI R. TRIPATHI, J.)

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